
1992 Wis Eth Bd 7
MEALS, LODGING, TRAVEL AND ENTERTAINMENT

A state public official may participate in a tour on which the official is invited because of his or her public position if it is primarily for the benefit of the state and not for private benefit. OEB 92-7

March 24, 1992

Facts

- [1] This opinion is based upon these understandings:
- a. You are a state public official.
 - b. You have been invited to participate in a tour, to be paid by the tour sponsor, because of your official status.

Question

- [2] The Ethics Board understands your question to be:

Does the Ethics Code pose any restrictions on your accepting the invitation to participate in the tour?

Discussion

[3] As you know, Wisconsin's Ethics Code prohibits state public officials from using their public positions or offices to obtain anything of substantial value for the private benefit of themselves or their immediate families. § 19.45(2), *Wisconsin Statutes*.¹ It seems evident that the travel and expenses are being offered to you because of your position. The pertinent question is whether the trip is official state business of benefit to the state's interest, or of primarily private benefit.

[4] The Ethics Board is reluctant to second guess the judgement of state officials as to the appropriate scope of performance of their duties. However, the Board is equally reluctant to permit private organizations to determine who should represent the state on good-will tours. For this reason we generally advise that officials accept such invitations only after consultation with

¹ §19.45(2), *Wisconsin Statutes*, provides:

19.45(2) No state public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. This subsection does not prohibit a state public official from using the title or prestige of his or her office to obtain contributions permitted and reported as required by ch. 11.

appropriate authorities. In this case, we advise that you accept the invitation for payment of travel and expenses only if your agency head sanctions this trip as an official undertaking of the State of Wisconsin and designates you to be the state's representative and that you confer with and report to the agency in connection with the tour. See 3 Op. Eth. Bd. 105 (1980).

Advice

[5] You may participate in the tour if your receipt of the associated costs is primarily for the benefit of the state, not for private benefit. Normally, the certification of an agency head that the costs would otherwise be paid by the state is all that is needed to establish that payment of the tour costs by another is for the state's benefit.